

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

UNITED STATES OF AMERICA

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1:13-CR-51

AMADOR SALDANA

**REPORT AND RECOMMENDATION REGARDING
MOTION TO STRIKE THIRD PARTY PETITION**

On October 11, 2016, the court entered a Preliminary Order of Forfeiture of the Defendant's interest in: 1) a money judgment in the sum of \$15,000,000.00; 2) real property located at 1699 Alcabuz St., Roma, Texas in Starr County, Texas; 3) 48.9 acres of real property located on Guerrero Road in Roma, Starr County, Texas; and 4) a 2010 Ford F-350. (Doc. No 45.)

On December 19, 2016, third parties, Benny Florenza J. and Maria Luc filed a petition asserting a third party interest in both pieces of real property mentioned above. (Doc. No. 57.) In response, on December 27, 2016, the Government filed a Motion to Strike Third Party Petition asserting that these third parties failed to state the nature of their interest in the properties or when they acquired such interest. (Doc. No. 59.) According to 21 U.S.C. § 853(n)(3), the petition "shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstance of the petitioner's acquisition of the right, title or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought." The petition pending before the court fails to meet these requirements. In addition, the third parties filed their petition after the deadline for filing such claims had passed.

It is therefore recommended that the Government's Motion to Strike Third Party Petition

(Doc. No. 59) should be GRANTED and the Petition filed by Benny Florenz J. and Maria Luc (Doc. No. 57) should be STRICKEN.

Under 28 U.S.C. § 636(b)(1), each party to this action has the right to serve and file specific written objections in the United States District Court to the United States Magistrate Judge's proposed findings, conclusions, and recommendation within fourteen (14) days after the party has been served with a copy of this document. The United States District Judge need only make a *de novo* determination of those portions of the United States Magistrate Judge's proposed findings, conclusions, and recommendation to which specific objection is timely made. See 28 U.S.C. § 636(b)(1). Failure to file, by the date stated above, a specific written objection to a proposed factual finding or legal conclusion will bar a party, except upon grounds of plain error or manifest injustice, from attacking on appeal any such proposed factual findings and legal conclusions accepted by the United States District Judge. See Douglass v. United Servs. Auto Ass'n, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (en banc).

SIGNED this 30th day of January, 2017.



Zack Hawthorn
United States Magistrate Judge